

No. 15-16440 / 15-16626 (Consolidated)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MANUEL DE JESUS ORTEGA MELENDRES, ET AL.,

Plaintiffs-Appellees

v.

MARICOPA COUNTY AND JOSEPH M. ARPAIO

Defendants

v.

DENNIS L. MONTGOMERY, Proposed Intervenor

Movant-Appellant.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

2:07-cv-02513-GMS

**The Honorable G. Murray Snow
United States District Judge**

**APPELLEES' OPPOSITION TO APPELLANT DENNIS L.
MONTGOMERY'S MOTION TO EXPEDITE APPEAL**

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Appellees Manuel de Jesus Ortega Melendres, et al., oppose Appellant Dennis L. Montgomery's motion for expedition (Dkt. 30 in No. 15-16440, Dkt. 26 in No. 15-16626).

There is no need to expedite the present consolidated appeals. Appellant is neither a party nor a witness in the proceedings below. Appellant objects to the District Court's discovery orders against parties in the case below, not against him, and he wishes to intervene and move to disqualify the District Court judge. For these ends, his attorneys filed the *pro hac vice* motions that are the subject of the present consolidated appeals.

This Court has twice denied Appellant's attempts to obtain "emergency" relief. First, Appellant filed an emergency petition for writ of mandamus to this Court (No. 15-71433, Dkt. 1-2), which this Court denied in an Order dated May 12, 2015 (No. 15-71433, Dkt. 2). Then Appellant filed an emergency motion to stay the District Court proceedings (No. 15-16440, Dkt. 6), which this Court denied in an Order dated September 15, 2015 (No. 15-16440, Dkt. 11). Appellees refer to their previous opposition to Appellant's motion for stay. *See* No. 15-

16440, Dkt. 7. Appellant's current motion adds nothing new to warrant expedition of the present consolidated appeals.¹

The present motion also seeks to impose a hardship on Appellee counsel. Appellant asks that the brief of Appellees be due on December 21, 2015. That is the same date that Appellees must file another brief in a different appeal filed by Maricopa County arising from the same case, No. 15-15996. That appeal involves issues that are very different from the issues raised by the present consolidated appeals. Requiring that Appellees' brief in the present consolidated appeals be filed on the same date as their brief in the No. 15-15996 would cause hardship for Appellees' counsel in light of the set time frame for Appellees' response to the County's appeal (for which no extensions will be granted to Appellees, pursuant to this Court's order of October 26, 2015 (No. 15-15996, Dkt. 21)). Given that Appellant's 19-page brief in one of the present consolidated appeals, No. 15-16626, was filed on November 20, 2015, the presently scheduled January 20, 2016 due date for Appellees' responsive brief is not unduly extended or unfair in any way.

Appellant will suffer no harm under the current schedule. His requested schedule change would create a hardship for Appellees' counsel in view of their

¹ Defendant Arpaio and another named contemnor also filed a petition for writ of mandamus seeking the District Court's disqualification and a motion for stay, which this Court also denied on September 15, 2015 (No. 15-72440, Dkt. 14).

brief due in the Maricopa County appeal, No. 15-15996. Appellees therefore request that the Court deny Appellant's motion for expedition.²

Dated: December 10, 2015

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² Appellant filed his motion to expedite without waiting to hear the positions of Defendants Arpaio and Maricopa County. *See* Circuit Advisory Committee Note to Ninth Circuit Rule 27-1, paragraph (5). Based on correspondence sent after Appellant filed his motion, Appellees understand that those other parties take no position on Appellant's motion.

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CERTIFICATE OF COMPLIANCE

I certify that pursuant to Fed. R. App. P. 27-1, the attached brief is in compliance with Fed. R. App. P. 27(d) and does not exceed 20 pages.

Date: December 10, 2015

/s/ Stanley Young
STANLEY YOUNG

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Date: December 10, 2015

/s/ Stanley Young
STANLEY YOUNG